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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

FINOVA Capital Corporation,	)	
	)	
Plaintiff,	)	No. CIV 02-1277-PHX RCB
	)	
Vs.	)	O R D E R
	)	
Richard A. Arledge, Inc.,	)	
d/b/a Arledge Motor Co.,	)	
et al.,	)	
	)	
Defendants.	)	

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On July 10, 2002, Plaintiff FINOVA Capital Corporation ("FINOVA") filed a complaint against Defendants Richard A. Arledge, Inc., d/b/a Arledge Motor Co., et al. ("the Arledges"), in this Court. Compt. (doc. 1). On October 10, 2003, the Arledges filed an amended answer and counterclaim, as well as a third-party complaint (doc. 91). The third-party complaint was brought against Third-Party Defendant Leucadia National Corporation ("Leucadia"). Id. Defendants filed a First Amended Original Third-Party Complaint on May 10, 2004. (doc. 140).

On November 1, 2004, Leucadia filed a motion for summary

1 judgment in this matter. Mot. (doc. 179). On March 17, 2005, the  
2 Court granted summary judgment in favor of Leucadia on all of the  
3 counts asserted in the Third-Party Complaint. Order (doc. 190) at  
4 33. The Arledges moved for reconsideration of the Court's ruling,  
5 however, the Court denied such motion. Mot. for Reconsideration  
6 (doc. 192); Order (doc. 196).

7 The bench trial on the remaining claims and counterclaims  
8 between FINOVA and the Arledges is scheduled to begin on April 11,  
9 2006. Final Pretrial Order (doc. 231).<sup>1</sup> In anticipation of the  
10 start of the trial, a Final Pretrial Order was entered on January  
11 26, 2006. FPO (doc. 231). Thereafter, Leucadia filed a motion  
12 requesting that the Court amend the Final Pretrial Order to delete  
13 the claims and issues listed involving Leucadia. Mot. to Amend  
14 (doc. 235). Specifically, Leucadia asserts that, in light of the  
15 Court's ruling granting Leucadia's motion for summary judgment, the  
16 Final Pretrial Order should be amended to remove all references to  
17 Leucadia, thereby prohibiting the Arledges from raising these  
18 issues at trial. Id. at 2. "The Arledge parties will not suffer  
19 prejudice from removing Leucadia from the Order because the claims  
20 against Leucadia have already been dismissed by this Court." Id.  
21 at 3.

22 In response, the Arledges oppose Leucadia's request. Resp.  
23 (doc. 242). First, the Arledges assert that Leucadia chose not to  
24 participate in the preparation of the Final Pretrial Order and  
25 should not be allowed to alter it now. Id. at 3. Second, they  
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27 <sup>1</sup>This scheduled trial is a trial on FINOVA's claims against the  
28 Arledges, and the Arledges' claims against FINOVA. No third-party  
claims shall be included in this trial.

1 argue that Leucadia, regardless of whether or not claims remain  
2 against it, is an integral player in the facts and circumstances of  
3 this case, thus requiring the Arledges "to delve into and elicit  
4 testimony concerning Leucadia" at trial. Id. at 3-4. Third, the  
5 Arledges maintain that they "included their claims against Leucadia  
6 in the Final Pretrial Order solely for appellate purposes." Id. at  
7 4. The Arledges, however, fail to cite any authority in support of  
8 these arguments.

9 The Court concludes that the Final Pretrial Order should be  
10 amended to remove all references to Leucadia.

11 Therefore,

12 IT IS ORDERED that Leucadia's Motion to Amend the Pretrial  
13 Order to Delete Claims and Issues Involving Leucadia (doc. 235) is  
14 GRANTED.

15 DATED this 31st day of March, 2006.

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19 Robert C. Broomfield  
20 Senior United States District Judge

21 Copies to counsel of record  
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